

## **EXHIBIT**

### **INTRODUCTION**

Respondent California Association for the Gifted PAC (the “Committee”) is a general-purpose committee sponsored by the California Association for the Gifted. Respondent Cathleen A. Silva was, at all times relevant to this matter, the treasurer of Respondent Committee.

This case arose from an audit of Respondent Committee by the Franchise Tax Board (the “FTB”) for the period January 1, 1997 through December 31, 1998. The Political Reform Act (the “Act”) <sup>1</sup> requires every committee and its treasurer to file periodic campaign statements disclosing the committee’s campaign activities. The FTB audit found that Respondents failed to timely file a pre-election campaign statement and a semi-annual campaign statement as required by the Act.

For the purposes of this Stipulation, Respondents’ violations of the Political Reform Act are stated as follows:

COUNT 1: Respondents California Association for the Gifted PAC and Cathleen Silva failed to file a pre-election campaign statement for the reporting period July 1, 1998 through September 30, 1998, by the October 5, 1998 due date, in violation of section 84200.5, subdivision (d) of the Government Code.

COUNT 2: Respondents California Association for the Gifted PAC and Cathleen Silva failed to file a semi-annual campaign statement for the reporting period October 1, 1998 through December 31, 1998, by the January 31, 1999 due date, in violation of section 84200, subdivision (a) of the Government Code.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

### Duty to File Semi-Annual Campaign Statements

Section 84200, subdivision (a) required recipient committees to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year.

Section 82013, subdivision (a) includes within the definition of “committee” any person or combination of persons who directly or indirectly receives contribution totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee.

Under the Act, there are different kinds of recipient committees, defined by the type of election activity they engage in. A recipient committee that is formed or exists primarily to support or oppose more than one candidate or ballot measure is defined in Section 82027.5, subdivision (a), as a “general purpose committee.” A general purpose committee that is formed or exists primarily to support or oppose candidates or measures voted on in a state election is defined as a “state general purpose committee.”

### Duty to File Pre-Election campaign Statements

Section 84200.5, subdivision (d) requires that in even-numbered years a state general purpose committee shall file pre-election campaign statements, as specified in Section 84200.7, if it makes contributions or independent expenditures totaling five hundred dollars (\$500) or more during the period covered by the pre-election statement. Section 84200.7, subdivision (b), sets forth the pre-election filing schedule for November elections held in even-numbered years. Under that statute, a first pre-election campaign statement must be filed by October 5, for the reporting period ending September 30, and the second pre-election campaign statement must be filed no later than 12 days before the election, for the reporting period ending 17 days before the election.

### Duties and Liability of the Treasurer

As provided in Section 84100, every committee shall have a treasurer. Under Section 81004, subdivision (b), and Regulation 18427, subdivision (a), it is the duty of a committee treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds. Under Sections 83116.5 and 91006, a committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

Under Regulation 18427, subdivision (d), if a committee fails to designate a treasurer as required under Section 84100, the person who is primarily responsible for initiating and implementing the political activity of the committee will be considered the treasurer and will be subject to all the duties set forth in subdivision (a) of Regulation 18427.

## **SUMMARY OF THE FACTS**

Respondent Committee is sponsored by the California Association for the Gifted, and has been a state general-purpose committee since 1982. Respondent Cathleen Silva was the treasurer of Respondent Committee at all times relevant to this matter.

This case arose from an audit of Respondent Committee by the FTB for the period January 1, 1997 through December 31, 1998. During the period covered by the audit, Respondents received contributions in the amount of \$21,720, and made expenditures totaling \$14,424. Respondents were required under the campaign reporting provisions of the Act, to file periodic campaign statements reporting their campaign activities. Respondents failed to timely file two such campaign statements.

### **Count 1**

#### **Failure to Timely File a Pre-Election Campaign Statement**

Respondents were required to file a pre-election campaign statement by October 5, 1998, for the reporting period July 1, 1998 through September 30, 1998. Respondents failed to file the statement by that due date, in violation of Section 84200.5, subdivision (d).

During this reporting period Respondents made expenditures totaling \$5,000. Those expenditures were contributions to support local school board candidates, and an independent expenditure to support California voter registration. Following the FTB audit and contact by Enforcement Division staff in 1999, Respondent Committee hired a professional treasurer and filed the delinquent pre-election campaign statement on July 12, 1999, disclosing their campaign activity for the reporting period July 1, 1998 through September 30, 1998.

By failing to file a pre-election campaign statement for the reporting period July 1, 1998 through September 30, 1998, by October 5, 1998, Respondents violated Section 84200.5, subdivision (d).

### **Count 2**

#### **Failure to Timely File a Semi-Annual Campaign Statement**

Respondents were required to file a semi-annual campaign statement by January 31, 1999, for the reporting period October 1, 1998 through December 31, 1998. Respondents failed to file the statement by that due date, in violation of Section 84200, subdivision (a).

During this reporting period Respondent Committee received \$725 in contributions from its sponsor, the California Association for the Gifted. They made no expenditures during the reporting period. Following the FTB audit and contact by Enforcement Division staff in 1999, Respondent Committee hired a professional treasurer and filed the delinquent semi-annual campaign statement on July 12, 1999, disclosing their campaign activity for the reporting period October 1, 1998 through December 31, 1998.

By failing to file a semi-annual campaign statement for the reporting period October 1, 1998 through December 31, 1998, by January 31, 1999, Respondents violated Section 84200, subdivision (a).

## **CONCLUSION**

Respondents were negligent in failing to properly report their campaign activity between July 1, 1998 and December 31, 1998. Respondent Committee is an experienced, long-standing state general-purpose committee, and had previously received a warning letter from the Enforcement Division for similar campaign reporting violations that occurred in 1993 and 1994.

On or about July 12, 1999, after being informed of the FTB audit results, Respondent Committee replaced their volunteer treasurer, and hired a professional treasurer to ensure that campaign reporting violations would not occur in the future. Additionally, Respondent Committee promptly filed the delinquent campaign statements for the reporting periods between July 1, 1998 and December 31, 1998.

This matter consists of two counts, which carry a maximum possible administrative penalty of \$4,000. However, since 1996, the typical penalty imposed for the non-filing of a pre-election campaign statement has been between \$1,500 and \$2,000 per violation, and for the non-filing of a post-election campaign statement, between \$1,000 and \$1,500 per violation.

The facts of this case, particularly that the undisclosed amounts were relatively small, and Respondents have taken remedial steps to prevent future reporting violations, justify a penalty at the lower end of both ranges. Therefore the agreed upon penalty of \$1,500 for Count 1, and \$1,000 for Count 2, for a total administrative penalty of Two Thousand Five Hundred Dollars (\$2,500) is appropriate.